IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3397 of 2007()

C.C.NO.190/07 OF THE MUNSIFF MAGISTRATE COURT, IRINJALAKUDA.

PETITIONER: ACCUSED:

P.N. SATHEESH, S/O. NARAYANAN,
PANIKKAPARAMBIL HOUSE, PORATHISSERY DESOM,
PORATHISSERY VILLAGE, IRINJALAKUDA, THRISSUR.

BY ADV. SRI.A.C.DEVY

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 3397 OF 2007

Dated this the 12th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. He had entered appearance through counsel; but did not appear personally on 26/6/07. Consequently, a warrant of arrest has been issued by the learned Magistrate against the petitioner on. The petitioner has not entered appearance and sought bail so far. The petitioner finds the warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner

has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. to Judge